

**Scianni, Melissa**

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**From:** Rao, Kate  
**Sent:** Friday, March 20, 2015 12:24 PM  
**To:** Diamond, Jane; Brush, Jason; Woo, Nancy  
**Subject:** FW: San Jose Mercury News: Huge development project on Redwood City salt site suffers major setback

Jane: I just spoke to Suzanne (OPA) - Jared had a phone interview with Silicon Valley reporter this morning (KQED – Rachel Myrow) about Cargill.

OPA/Jared declined an interview with KQED Forum which is doing a 30 min segment on Cargill salt ponds. Air date is Monday I believe.

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**From:** Skadowski, Suzanne  
**Sent:** Friday, March 20, 2015 9:14 AM  
**To:** Rao, Kate; Diamond, Jane; Brush, Jason; Kermish, Laurie; Kao, Jessica; Woo, Nancy; Scianni, Melissa; Leidy, Robert  
**Subject:** FW: San Jose Mercury News: Huge development project on Redwood City salt site suffers major setback

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**From:** Skadowski, Suzanne  
**Sent:** Friday, March 20, 2015 9:13 AM  
**To:** Zito, Kelly  
**Subject:** San Jose Mercury News: Huge development project on Redwood City salt site suffers major setback

KQED is asking for comment today (see Jared's email below)...

**[San Francisco Bay: Huge development project on Redwood City salt site suffers major setback](#)**

*By Paul Rogers – San Jose Mercury News, Bay Area News Group*

REDWOOD CITY -- A developer's long-running plans to build thousands of bayfront homes on Cargill Salt's lands -- the largest proposed development along San Francisco Bay in 50 years -- have hit a significant, and possibly fatal, setback.

After several years of behind-the-scenes battles, this newspaper has learned, the U.S. Environmental Protection Agency has taken the rare step of wresting control of the most important decision over the project's fate from the Army Corps of Engineers.

The question: whether the 1,478-acre site east of Highway 101 is bound by the Clean Water Act, which could strictly limit development, or whether it is dry land that can be converted to a huge new community.

The EPA is widely expected to put up more limits, while the Army Corps indicated a year ago that the Clean Water Act wouldn't apply.

"For us, it's a critical juncture for San Francisco Bay," said Jared Blumenfeld, the EPA's regional administrator in San Francisco. "Our goal is continuing to implement the Clean Water Act in a way that protects the bay."

With billions of dollars at stake, the bayfront property next to the Port of Redwood City, and between Facebook and Oracle, has become a battleground that highlights Silicon Valley's growing housing shortage and decades-long efforts to restore San Francisco Bay.

Blumenfeld said Thursday that the EPA will make a final decision by the end of this year or by early 2016.

The developer, Arizona-based DMB, said it is shocked by EPA's decision Wednesday afternoon to take control of the Clean Water Act question.

"We're frankly confused and astounded," said David Smith, an Oakland attorney for the project, who said the company had been expecting a final ruling from the Army Corps this week after nearly three years of study, and that the EPA stepped in "at the 59th minute of the eleventh hour."

Environmentalists cheered the news Thursday.

"I think the EPA is doing the right thing to protect the bay against Cargill's rogue efforts to gut the Clean Water Act and build in the bay," said David Lewis, executive director of Save the Bay, an Oakland environmental group. "That site should be part of the national wildlife refuge and restored to wetlands for people and wildlife. That's what's happening all around the bay where the Clean Water Act has protected against development in salt ponds."

In 2009, DMB, working with Cargill, proposed building up to 12,000 homes for 25,000 people on the site, where salt has been produced for decades. At that size, the project would be the largest bayfront housing development since construction crews filled in large sections of the bay to build Foster City in the early 1960s. More recently, DMB has said it is working on a new plan while waiting for the final ruling on the Clean Water Act question.

Legal experts said Thursday that EPA's taking over is a significant setback for the project. Not only will the move delay any construction, but depending on how much of the site EPA says cannot be developed, it could be so limited that the project will not financially pencil out.

"Usually under the Clean Water Act, the EPA limits where developers can build. But they could potentially say the developer can't build anything there," said Leon Szeptycki, a water law attorney at Stanford University.

The Clean Water Act, passed by Congress in 1972, is among the nation's most far-reaching and landmark environmental laws. It was intended to force industries to stop polluting streams and lakes, but also to stop developers from dredging or filling in wetlands, bays and other areas declared "the waters of the United States."

For years, Cargill has vociferously argued that its thousands of acres of industrial salt ponds around the South Bay -- including the Redwood City site -- are not "waters of the United States." Cargill's properties are worth more if the designation does not apply because they could be filled and developed into housing more easily. "This site is an industrial harvesting facility," said DMB's Smith. "It has been completely severed from the bay

and any tidal interaction since 1940." Smith also argued the Bay Area needs the housing. The area is near the new Facebook campus, Oracle and other large tech companies.

Environmentalists have argued the salt ponds are "waters of the United States" subject to the Clean Water Act's jurisdiction because they were once part of the bay and could be restored to tidal marshes. "Every place around the bay that has similarly been cut off from the bay and not developed has been, or is in the process of being, restored, from old hayfields to old salt ponds," said Save the Bay's Lewis.

Opponents say the development would worsen traffic on Highway 101. They argue housing should be build further inland, and that as the bay continues to rise due to climate change, the development would be subject to flooding.

In 2003, Cargill sold 16,500 acres of its salt ponds to the public for \$100 million, setting up one of the largest wetlands restoration efforts ever attempted in the United States. Since then, state and federal wildlife agencies have been converting much of the land back to wetlands for fish, birds and public recreation.

But the Redwood City site -- where for years salt has been crystallized and scraped off the mud and used for road de-icing, food and medicine -- was left out of the deal because Cargill said it could be developed more easily than the other properties, many of which were covered in water.

Giving DMB and Cargill hope, last year the Army Corps of Engineers issued a legal memo saying the land was not subject to the Clean Water Act, handing the developer a victory.

But then 11 members of the Bay Area congressional delegation wrote a letter of protest last month. Sen. Dianne Feinstein, D-Calif., who brokered the original 2003 Cargill land sale, waded into the controversy. "I'm very concerned about this," Feinstein told Army Corps leaders at a Senate hearing in February. "What makes our whole area is the bay, and we do not want it filled in."

The EPA this week stepped in one day before the Army Corps was scheduled to make a final ruling. It used an obscure provision of federal law that has only been used three times in California since 1989 when it was first written.

"On its face, for the public and members of Congress, it has seemed to be a clear example of what would be in Clean Water Act jurisdiction," said the EPA's Blumenfeld. "But we are going to do a thorough analysis and dot all the i's and cross all the t's."

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**From:** Blumenfeld, Jared

**Sent:** Friday, March 20, 2015 7:56 AM

**To:** Skadowski, Suzanne

**Subject:** Fwd: Got comment? Huge development project on Redwood City salt site suffers major setback

Sent from my iPhone

Begin forwarded message:

**From:** Rachael Myrow <[rmyrow@KQED.org](mailto:rmyrow@KQED.org)>

**Date:** March 20, 2015 at 7:43:27 AM PDT

**To:** "[blumenfeld.jared@epa.gov](mailto:blumenfeld.jared@epa.gov)" <[blumenfeld.jared@epa.gov](mailto:blumenfeld.jared@epa.gov)>

**Subject: Got comment? Huge development project on Redwood City salt site suffers major setback**

From Paul Rogers in the Mercury News:

Enviros cheer as EPA steps into fight over massive (1,478-acres/12,000 units) development proposal on Cargill salt ponds next door to the port in Redwood City.

<http://buff.ly/1FK1NPk>

650-529-9901